

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

MEMORANDUM

TO: John Robertus
Executive Officer

FROM: Sabine A. Knedlik, WRCE
Industrial Compliance Unit

DATE: November 7, 2002

SUBJECT: SOUTHWEST MARINE, INC.
RESPONSE TO COMMENTS REGARDING TENTATIVE ORDER NO. R9-2002-0161
ITEM NO. 12

The Regional Board received comment letters from Southwest Marine Inc.(SWM), the Environmental Health Coalition (EHC), and Briggs Law Corporation (representing Divers' Environmental Conservation Organization, *DECO*) regarding tentative Order No. R9-2002-0282. Brief paraphrases of the concerns listed in each letter and staff's response are provided below. The comments in the letters have been numbered by staff to correlate with the comments and responses below. In some cases, multiple comments with similar concerns are grouped into a single comment and response. The specific part of the tentative Order that is being commented upon is also identified. The agenda material includes copies of the letters received.

A. Southwest Marine Inc. letter, dated October 30, 2002

Comment 1.

Tentative Order, *Discharge Specifications*, B4, page 8

The toxicity standard for storm water is unobtainable. SWM requests that if the toxicity standard must remain, as it exists in the current General Shipyard Permit, it is only applied to the first flush, as defined in the tentative Order. Thereafter, it should only be a performance goal to meet the toxicity limits.

Response: The toxicity standards were adopted in 1997 in the General Shipyard Permit and apply to any storm water that is discharged to the bay. Under 40 CFR 122.44(l), a reissued permit can not contain less stringent effluent limitations than the previous permit had established. It is appropriate to continue the storm water toxicity limit in the tentative Order for any storm water discharge that may occur.

Comment 2.

Fact Sheet, *Background, B*, page I, *Facility Description, C.3*, page 3, and *Discharge Sources and Waste Characterization, D.2*, page 6 and 7

Several minor factual inaccuracies were noted in the Fact Sheet of the tentative Order.

Response: The Fact Sheet was revised accordingly (see Errata Sheet).

Comment 3.

Tentative Order, *Prohibitions, 6 & 10*, page 6 & 7

The cleaning of floating booms, installed at the direction of the U.S. Navy for 'Force Protection', should be excluded from *Prohibitions 6* and *10* of the tentative Order.

Response: The Prohibitions will be clarified to reflect that the prohibition does not apply to cleaning of booms that were installed for the purpose of 'Force Protection'. Monitoring Provisions for boom cleaning will be added to the tentative Monitoring and Reporting Program.

Comment 4.

Monitoring and Reporting Program, *Effluent Monitoring, 1*, page 4

If enough copper data to conduct a Reasonable Potential Analysis (RPA) is collected in less than two years, SWM requests that monitoring requirements for copper be amended/terminated accordingly.

Response: At this time, insufficient data is available to determine an effluent limit for copper. Recently submitted effluent and receiving water monitoring data as well as historical effluent monitoring data for copper have shown that the concentration in the effluents (fire protection water and non-contact cooling water discharges) were above the copper water quality criterion established in the California Toxics Rule (CTR). Samples collected simultaneously for effluent and receiving water will help in identifying if copper concentrations in the bay exist in concentrations above the water quality criteria and if discharges from SWM add copper to the bay. It is staff's opinion that monitoring data for twelve consecutive months over a period of two years is appropriate to establish if a annual trend in changing copper concentrations exists and if the copper concentration in the effluent needs a limit. If this determination can be made after one year the Order could be amended early.

B. Environmental Health Coalition letter, dated October 30, 2002

Comment 1.

Tentative Order, *Finding 10*, page 3

Finding 10 of the tentative Order should be deleted. The fact that the U.S. Navy was given four years to undermine protection of San Diego Bay by establishing its own discharge limits [for

toxicity in storm water] is no cause for celebration and should not be 'encouraged' for the Shipyards.

Response: The tentative Order requires SWM to monitor toxicity in storm water discharges. The Regional Board encourages SWM to participate in the Navy study since more data and important information on toxicity in storm water runoff and in the bay could be collected during the course of this study. Participation in the Navy study does not relieve SWM from the toxicity limits that are established in the tentative Order.

Comment 2.

Tentative Order, *Finding 11*, page 3

A deadline for sediment sampling to commence should be given in the tentative Order.

Response: A deadline is not necessary at this time. The purpose of the sediment-sampling plan is to track pollutant levels in the sediment and to establish if pollutant concentrations in the sediment significantly increased over time. The Regional Board already established the need for sediment cleanup at the SWM site. SWM will collect sediment data through the sediment cleanup process. Samples taken during the cleanup process are expected to be similar to samples that would be taken pursuant to the tentative Monitoring and Reporting Program and can be substitute until the cleanup is completed. The tentative Monitoring and Reporting Program requires that the first sediment samples be taken concurrently with the post cleanup sampling to establish a baseline set of data.

Comments 3, 5, and 9.

Tentative Order, *Finding 22*, page 5, and *Discharge Specification, B.1*, page 7

Copper was the only constituent for which additional monitoring was established, although other pollutants were present in the discharge. Standards and discharge limits need to be added for copper, antimony, arsenic, selenium, and zinc, whether or not they exceeded the current criteria. Limits must be included to ensure compliance with the criteria in the California Toxics Rule (CTR).

Response: Besides copper, other metals and metalloids were detected in the discharges as well as in the receiving water but the water quality objectives specified in the CTR were not exceeded. The non-contact cooling water and the fire protection water discharges from the pumps serving the fire protection systems of ships berthed at SWM do not come in contact with significant contaminants or industrial processes. The fire protection water discharges are essentially excess pressure releases or bypass flows from the fire pumps. These releases are necessary to prevent damage to the impellers and valves of the pumps due to cavitation. The circulation of the seawater in the ship's fire mains is crucial in maintaining a state of readiness in the event fire starts on the ship while being serviced at SWM. Copper is the principle priority pollutant that may be entrained in the discharges from fire protection water and non-contact cooling water due to potential contact with eroding piping, pump impellers, and valve bodies. All other metals including antimony, arsenic, nickel and zinc have little or no potential of being added to the discharge.

The data was evaluated pursuant to the *Implementation Policy* and it was determined that effluent limits for any of the detected constituents (not including copper) are not necessary. The tentative Order does require monitoring of several metals and metalloids, including copper, zinc, and arsenic. This data will be used to evaluate continuous compliance with the water quality criteria established in the CTR.

Antimony and selenium, which are not considered to be typical shipyard pollutants, were detected at low levels and do not need to be monitored.

Comments 4 and 6.

Tentative Order, *Finding 23*, page 5, and *Discharge Specification, B.3*, page 8

EHC is opposed to the allowance of pollutant intake 'credits'. The Bay is highly polluted and there is no reason to allow pollution to be discharged in excess of criteria. EHC also opposed the allowance for toxicity 'credits' for point source discharges.

Response: *Finding 23* does not mention intake credits. *Finding 23* states that additional effluent and intake sampling for copper is required pursuant to the *Implementation Policy*.

Discharge Specification, B.3 includes acute and chronic toxicity intake credits which were previously allowed under Order 97-36 and are continued in the tentative Order for discharges that do not ordinarily come in contact with pollutants. These discharges, such as fire protection water and non-contact cooling water, are bay water that is pumped from the bay, circulated through hoses and pipes, and discharged back into the bay. Historical data from toxicity tests on these types of discharges has not shown that toxicity is added to the receiving water.

Comment 7.

Tentative Order, *Receiving Water Limitations, C*, page 9

The receiving water limits are not numeric and specific. Narrative limits are established but no corresponding receiving water monitoring is required.

Response: Numeric receiving water quality objectives were considered during the Reasonable Potential Analysis, pursuant to the *Implementation Policy*. Most narrative receiving water limits, such as *Receiving Water Limitation, C.3* of the tentative Order ("Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded.") need to be evaluated through additional monitoring or a site-specific study. If the Regional Board has reason to believe that SWM could be in violation of one or more of the narrative receiving water limitations, the Regional Board can request additional information pursuant to *California Water Code*, Section 13267.

Comment 8.

Tentative Order, *Provision, E.7*, page 11

It is not clear from *Provision 7* of the tentative Order on what happens after the BMP failed and a discharge caused or contributed to a violation. It needs to be made clear that if there is a violation of the permit, enforcement action will be taken.

Response: Enforcement action will be taken pursuant to the *Water Quality Enforcement Policy* and the *California Water Code*, Section 13385, if a waste discharge requirement is violated. It is not necessary to state in the tentative Order that specific enforcement action will or will not be taken.

Comment 10.

Monitoring and Reporting Program, *Spill/Illicit Discharge Log, H*, page 12

It is unclear how pollutant discharges from vessels that are in the yard being worked on will be handled.

Response: These discharges are prohibited and are addressed in *Prohibition 6* of the tentative Order. Regional Board staff plans to make an addition to the tentative *Monitoring and Reporting Program* (MRP), *H. Spill/Illicit Discharge Log*, that clarifies that pollutant discharges from vessels have to be included in the logs.

Comment 11.

Monitoring and Reporting Program, *Waste Hauling Log, J*, page 13

The name, address, and contact and license number of waste haulers should be required.

Response: SWM is required to keep records of all hazardous waste hauling logs (manifests), which include this information. The information can be reviewed at the facility or through the *Department of Toxic Substances Control* (Hazardous Waste Tracking System) and does not need to be included in the current waste hauling log submissions.

Comment 12.

Monitoring and Reporting Program, *Sediment Chemistry Monitoring, K*, page 13

The shoreline should be monitored so that we can see if BMPs implemented at SWM are working. The practice of compositing sediment samples may dilute the results of contamination and should not be allowed.

Response: Sediment samples along the shoreline have been and will continue to be part of the Sediment Monitoring Plan specified in the Monitoring and Reporting Program. The majority of sediment sample stations at SWM are along the shoreline and by the piers.

Staff concurs with EHC that the compositing method could dilute the contamination levels contained in sediment samples for the localized sampling sites associated with CMSD. Furthermore, the sediment collection and sampling procedures being employed for the sediment cleanup assessment of shipyards in San Diego Bay also does not permit compositing.

The sample collection method, specified in *Sediment Chemistry Monitoring, K.1.iii*, will be revised accordingly to reflect that no compositing will be permitted.

Comment 13.

General Comment

An emerging issue that needs to be investigated is regarding the quality and potential need for treatment of runoff after the first flush has been diverted. EHC recommends that a working group or other effort on a parallel track be established to begin examining and possibly address issues of treatment of runoff, improvements of BMPs, and other actions necessary to ensure that runoff meets protection standards of San Diego Bay.

Response: The comment/recommendation was noted.

C. Divers' Environmental Conservation Organization letter, dated October 30, 2002

Comment 1.

Tentative Order, *Prohibitions*, A, page 6

The tentative Order lacks absolute prohibitions on first-flush discharges. Why allow any discharges of storm water to San Diego Bay that might contain priority pollutants when the shipyards have ample resources to detain all first flush discharges?

Response: *Prohibition 4* of the tentative Order prohibits the discharge of the first flush of storm water runoff unless the discharge is in compliance with the toxicity limits specified in the tentative Order. If the first flush meets the toxicity limitations of the tentative Order, then the discharge does not pose a significant threat to water quality. The *Implementation Policy* implements the CTR regulation that includes the list of the 126 priority pollutants. The *Implementation Policy* does not apply to storm water discharges (see page 1, footnote 1, of the *Implementation Policy*).

Comment 2.

General Comment on *Conflict between CTR and tentative Order*

A big problem with the tentative Order is that it fails to prohibit discharges that cause or contribute to a violation of the CTR's water-quality criteria. The tentative Order must contain effluent-based limitations for every priority pollutant identified in the CTR that 'causes or has the reasonable potential to cause' a violation of the CTR. The Regional Board should determine what priority pollutants require effluent limitations.

Response: Regional Board evaluated SWM point source monitoring data and conducted a Reasonable Potential Analysis (RPA), pursuant to the *Implementation Policy*. Through the RPA it was found that the only constituent exceeding water quality criteria is copper. Please refer to the Fact Sheet, page 12-14, of the tentative Order, which explains the details of the analysis.

Comment 3.

General Comment on *Lack of Monitoring Requirements*

The tentative Order lacks monitoring requirements for discharges of industrial storm water to receiving waters. Federal regulations, however, require each permit to contain monitoring requirements.

Response: The tentative Order requires storm water monitoring for 20 parameters, including acute toxicity. Monitoring is required for two storms per year in the case that storm water is discharged to the bay. Reference to monitoring methods and other requirements are included in the tentative Order and can be found in the Monitoring and Reporting Program, *Effluent Monitoring, D.4*, page 6.